

F I L E D

Clerk of the Superior Court

JAN 23 2007

By: K SANDOVAL, Deputy

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2 NANCY L. FINEMAN (SBN 124870)
3 STEVEN N. WILLIAMS (SBN 175489)
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Attorneys for Independent Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

Coordination Proceeding Special Title
(Rule 1550(b))

JCCP Nos. 4221, 4224, 4226 & 4228

NATURAL GAS ANTI-TRUST CASES I, II,
III, IV

**[PROPOSED] ORDER REGARDING
BRIEFING SCHEDULE FOR
PLAINTIFFS' McKESSON MOTION TO
COMPEL AGAINST DEFENDANTS RE
PRIVILEGED DOCUMENTS
PROVIDED TO THIRD PARTIES**

This Document Relates to:

THE PRICE INDEXING CASES

Date: January 8, 2007
Time: 1:30 p.m.
Dept.: 71
Honorable Ronald S. Prager

**[PROPOSED] ORDER RE BRIEFING SCHEDULE FOR PLAINTIFFS' McKESSON
MOTION TO COMPEL AGAINST DEFENDANTS RE PRIVILEGED DOCUMENTS
PROVIDED TO THIRD PARTIES**

1 On January 8, 2007, the Court informally heard argument regarding the procedure for the
2 parties to present to the Court the Independent Plaintiffs' Motion, pursuant to *McKesson HBOC*,
3 *Inc. v. Superior Court* (2004) 115 Cal.App.4th 1229, for an Order Compelling Defendants to
4 Produce Privileged Documents Provided to Third Parties. Nancy L. Fineman of Cotchett, Pitre,
5 Simon & McCarthy appeared for Independent Plaintiffs; Barry Himmelstein of Lieff, Cabraser,
6 Heiman & Bernstein, LLP, and Derek G. Howard of Murray & Howard appeared for the Class
7 Plaintiffs; Bennett G. Young of LeBoeuf, Lamb, Greene & MacRae LLP appeared on behalf of
8 Defendant Aquila Merchant Services, Inc.; Jeffrey M. Shohet of DLA Piper US LLP appeared on
9 behalf of Defendants The Williams Companies, Inc. and Williams Power Company, Inc.;
10 Christopher J. Healey of Luce, Forward, Hamilton & Scripps appeared on behalf of Defendant
11 Reliant Energy Services; Douglas T. Tribble of Pillsbury Winthrop Shaw Pittman, LLP appeared
12 on behalf of Defendants Dynegy Inc. and Dynegy Power Marketing and Trade; Orly Z. Elson of
13 Sullivan & Cromwell LLP appeared on behalf of Defendant WD Energy; Roxanna Manuel of
14 Quinn Emanuel Urquhart Oliver & Hedges, LLP appeared on behalf of Coral Energy Resources,
15 LP; and Peter J. Kadzik of Dickstein Shapiro LLP appeared on behalf of Duke Energy Trading
16 and Marketing LLC. By telephone appeared Joshua D. Lichtman of Fulbright & Jaworski LLP
17 on behalf of defendant Coral Energy Resources, LP; Richard P. Levy of Gibson, Dunn &
18 Crutcher on behalf of San Diego Gas & Electric Co. and Southern California Gas; Brendan P.
19 Cullen of Sullivan & Cromwell LLP on behalf of Defendant WD Energy; and Nitin Reddy of
20 Sidley Austin LLP on behalf of CMS Marketing Services and Trading.

21 After discussing this matter with counsel, the Court finds and orders as follows:

22 1. By Tuesday, January 23, 2007, Plaintiffs will file and serve a Motion to Compel
23 the Production of Documents Withheld Under Claim of Privilege which were provided to the
24 government.

25 2. By Wednesday, February 21, 2007, Defendants are to file and serve their
26 oppositions. Defendants are encouraged to file a single joint brief addressing all common issues
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1 to the extent possible in addition to their individual briefs and evidence addressing individual
2 issues.

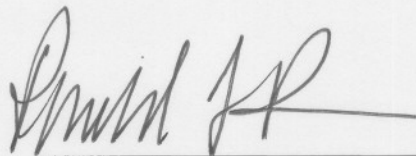
3 3. By Wednesday, March 21, 2007, Plaintiffs are to file and serve their reply.
4 Since Defendants may file a sur-reply, the Plaintiffs may submit evidence in the reply brief to
5 rebut the evidence submitted in the opposition papers.

6 4. By Wednesday, April 4, 2007, Defendants are to file and serve their sur-reply.
7 At the time of the filing of their sur-reply, the Defendants shall also submit to the Court two
8 hearing binders which contain all of the parties' pleadings.

9 5. The Court will then review the papers and then decide on a tentative ruling and
10 hearing schedule.

11 IT IS SO ORDERED.

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13 Dated: JAN 23 2007

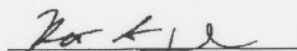


Hon. Ronald S. Prager
Coordination Trial Judge

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16 APPROVED AS TO FORM:

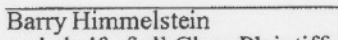
17 Dated: January 16, 2007

LeBOEUF, LAMB, GREENE & MacRAE LLP

18 
19 Bennett G. Young
on behalf of all Defendants

20
21 Dated:

LIEFF, CABRASER, HEIMAN & BERNSTEIN, LLP

22
23 
Barry Himmelstein
on behalf of all Class Plaintiffs

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13 Dated:

Hon. Ronald S. Prager
Coordination Trial Judge

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17 Dated:

LeBOEUF, LAMB, GREENE & MacRAE LLP

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Bennett G. Young
on behalf of all Defendants

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LIEFF, CARRASER, HEIMAN & BERNSTEIN, LLP

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Barry Himmelstein
on behalf of all Class Plaintiffs